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(1863)

DOC. No. XXI.

**GOVERNOR'S COMMUNICATION**

TRANSMITTING HIS

**LETTER TO PRESIDENT LINCOLN.**

1863.

1888

THE UNIVERSITY OF VIRGINIA

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EXECUTIVE DEPARTMENT,  
RICHMOND, VA., January 29, 1863.

*Gentlemen of the Senate  
and House of Delegates :*

A flag of truce boat having arrived at City Point, and no response having been received from President Lincoln to my communication addressed to him, dated January 2, 1863, I assume that it is not his intention to make a reply. I therefore transmit to each house a copy of the communication.

Respectfully,

JOHN LETCHER.

The first part of the document  
 discusses the general principles  
 of the system and the  
 various methods of  
 application. It is  
 divided into several  
 sections, each dealing  
 with a different aspect  
 of the subject. The  
 first section is  
 devoted to the  
 history of the  
 system, and the  
 second to the  
 theory of its  
 operation. The  
 third section  
 describes the  
 practical  
 details of the  
 system, and the  
 fourth to the  
 results of its  
 application. The  
 fifth section  
 contains the  
 conclusions of the  
 author, and the  
 sixth to the  
 appendix. The  
 appendix  
 contains the  
 tables and  
 figures which  
 illustrate the  
 system. The  
 tables are  
 arranged in  
 columns, and the  
 figures are  
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# LETTER.

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EXECUTIVE DEPARTMENT,  
*Richmond, January 2, 1863.*

SIR:

On the 17th of April 1861 the convention of the commonwealth of Virginia, representing the sovereignty of the state, passed "an ordinance to repeal the ratification of the constitution of the United States of America by the state of Virginia, and to resume all the rights and powers granted under said constitution." In this ordinance it is declared, "that the union between the state of Virginia and the other states, under the constitution aforesaid, is hereby dissolved, and that the state of Virginia is in the full possession and exercise of all the rights of sovereignty which belong and appertain to a free and independent state." This action of the convention was subsequently ratified by an overwhelming majority of the people of the state, and the commonwealth was thereafter absolutely separated from the government of the United States, and became to that government an independent and foreign power. The state subsequently by its solemn acts became a member of the Confederate States of America. Against this Confederacy the government of the United States declared war, by levying troops to conquer and reduce them to subjection, and has been since waging with unabating fury this unnatural war. The sovereign states of this Confederacy, in pursuance of conventions between themselves and the government of the Confederacy, bound themselves to make common cause in this contest, and have since prosecuted the war with all the vigor in their power, and by the help of God will continue to do so until their independence is unconditionally recognized, and their ancient boundaries fully and incontestably established.

In the prosecution of this purpose, Col. Richard Thomas Zarvona, an officer, with others under his command, with the authority and by express orders from the executive of this state, planned and executed an expedition, by which the steamer *St. Nicholas*, and other vessels belonging to the marine of the United States, were captured and brought as prizes into the waters of this state. In a subsequent expedition, undertaken under the same authority, and while bearing on his person a commission from the governor of this state appointing him a colonel of volunteers, and with orders of a warlike character, he was arrested by the police on board the steamer *Mary Washington*, on her trip to Baltimore, and carried a prisoner to fort McHenry. From thence he has been removed and is now confined at fort Lafayette as a felon in a dungeon, and subjected to the greatest inhumanity.

That he was under these circumstances rightfully a prisoner of war, is not denied, and that he might be held as such until exchanged under some cartel for the purpose, I do not controvert. He had been known to be in hostility to the government of the United States, and was liable therefore to be captured wherever found. But he was not in any sense to be regarded as a felon, holding as he did the military commission of the state of Virginia, and in the execution of her military and naval orders.

If he was regarded in any other light than as a colonel in the service of the state, then was he, in the language of the constitution of the United States, entitled "to a speedy and a public trial by an impartial jury of the state and district wherein the crime [shall have] had been committed, which district [shall] should have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the

witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence."

Notwithstanding this express clause, he has now been confined for eighteen months, and not one of the provisions contained in it has been attempted to be complied with.

The only cause that I have seen assigned for his incarceration was announced in a paper printed in the city of Baltimore on the 9th of July 1861, immediately after his arrest, in which it is stated, "that Mr. Richard Thomas and five or six other persons were arrested on board the steamer Mary Washington, as she was coming up the bay yesterday. The charge against them we believe to be that they were concerned in the seizure of the St. Nicholas a few days since. The party were coming up to the city as passengers, when they were pointed out by two spies on board the boat, and as she reached the wharf at fort McHenry, the boat rounded to, and they were delivered up to the officer in command." If his offence was the seizure of the St. Nicholas, that seizure was accomplished by a justifiable stratagem by naval and military officers of this state, in company with Col. Zarvona, and with a design to carry out a bolder and more daring military and naval enterprise, the success of which would have been beyond doubt, if Virginia's action had not been thwarted by circumstances beyond her control. When the St. Nicholas was taken, Col. Zarvona was an officer appointed by and in the service of Virginia, and was in *flagrante bello*, engaged in a hostile act, and entitled to be considered, if taken, as a prisoner of war, and if taken afterwards for the offence then committed, he could only be so considered and so treated.

Under the cartel for the exchange of prisoners, entered into between the governments of the United States and the Confederate States, all prisoners of war were to be exchanged upon certain agreed terms. Why Col. Zarvona has not been exchanged under this agreement, it is for the government of the United States to explain. Why he has been subjected to indignities that no other prisoners have been compelled to undergo, is not for me to consider. It is sufficient for the executive of this state to be apprised of the fact, to induce him, for the sake of humanity and for the sake of the usages of civilized nations to ask that such severity should not be practiced upon an officer in the service of this state, for his obedience to orders emanating from her authority.

It is proper, under all the circumstances of this case, that I should inform you distinctly of the course I have taken and the policy I intend to pursue.

Independent of the forces which have been contributed by this state to the armies of the Confederate States, Virginia has a force of her own operating under the command of Major General John B. Floyd, by whom there have been captured two hundred and one prisoners, most of whom have been brought to the city of Richmond for safe custody.

From these prisoners I have taken two of the officers belonging to the 4th regiment of troops under the usurped government of Virginia, to wit, Captain Thomas Damron and Lieutenant Wilson Damron, and have ordered them to be imprisoned in the penitentiary of this state, and to be kept in solitary confinement; and I have further ordered that the following privates, to wit, John W. Howe, Isaac Goble and David V. Auxier, who belonged to the 39th Kentucky regiment; and Samuel Pack, also from Kentucky, and Wm. S. Dills from Ohio, each of the 5th Virginia regiment, under the usurped government, to be also kept in the penitentiary, in solitary confinement; all of them there to remain until Colonel Zarvona is properly exchanged under suitable agreement, or discharged, and permitted to return to this city.

In addition to this case of unusual and severe treatment of a prisoner of war, another and equally glaring instance has been brought to my notice—a case equally appealing to my sense of justice, and calling loudly for redress.

Under a proclamation from the executive of this state, calling upon the citizens of north-western Virginia to organize themselves into companies, to repel the invasion of this state

by her enemies, Captain Daniel Duskey and Lieutenant Jacob Vanner, two patriotic officers, one a citizen of Calhoun county and the other a citizen of Jackson county in this state, organized a small force, and took military possession of the town of Ripley in the county of Jackson, and held it in opposition to the federal authority and to the usurped government in Virginia. While so in possession of this town, they took military possession of the mails, for the purpose of ascertaining the military purposes of the enemy, as they had a right to do by the rules of warfare all over the world. Some time afterwards they were overpowered by a much larger force and required to surrender, which they refused to do until their captors, who were soldiers of the United States, agreed that they should be treated as prisoners of war. After this agreement was made, they and the force under them surrendered, and immediately thereafter, in violation of the express stipulation to the contrary, they were taken to the city of Wheeling, confined in jail there, indicted, tried and convicted, and sentenced to the penitentiary for a term of four years, upon the charge of robbing the mail; and they are now, and have been ever since confined in the penitentiary at the city of Washington, treated as common felons. Both he and his companion Jacob Vanner are citizens of high character and patriotism, honorable, and heretofore honored by public positions in their counties.

For such violations of the plainest dictates of justice and propriety, and against all the usages of war, some remedy must be found.

I have determined, therefore, to put in execution the principle of retaliation; and I have ordered two of the prisoners captured by General Floyd, to wit, Captain William Gramm of Philadelphia, and Lieutenant Isaac A. Wade of Putnam county, 8th Virginia regiment under the usurped government of Virginia, belonging to the army of the United States, to be also imprisoned in the penitentiary of this state, and to be kept safely there at hard labor until Captain Duskey and Lieutenant Vanner are either exchanged, under some suitable agreement to be entered into between the government of the United States and the state of Virginia, or until they are unconditionally discharged.

And I deem it a duty I owe to the cause of humanity and civilization, to hold the residue of the prisoners I have now in custody, as well as all who may hereafter come into the possession of this state, as hostages for the good treatment of unoffending citizens of Virginia, who have been incarcerated for no other cause than being loyal to their own state and the government of their choice—a government which has in a thousand instances been recognized and acknowledged by the government of the United States as one of the sovereign and independent states of the former Union, and which they are now waging a hopeless war to restore to its position.

Believing, however, that it would be better for the government of the United States; better for the Confederate States; better for the individual states; better for the citizens; better for the cause of humanity and of civilization, that these departures from the rules of modern warfare should no longer be permitted to exist, I respectfully ask that some arrangement should be made for the proper exchange of the prisoners named, and some agreement be entered into for the exchange of all state prisoners hereafter. If no such agreement be made, and the course hitherto pursued be continued, I shall without hesitation, so long as the honor of Virginia and the safety and welfare of her citizens are entrusted to me as her chief magistrate, unflinchingly retaliate, to the utmost of my ability and power, for any improper, unusual or harsh treatment practiced upon officers, soldiers or citizens of Virginia. The sin of its commencement shall rest upon the government of the United States. The virtue of its continuance shall be proudly upheld by the authorities of this commonwealth.

Respectfully,

JOHN LETCHER.

*His Excellency* ABRAHAM LINCOLN,  
*President of the United States.*

Ben Harp  
August  
1861  
St. Louis